

Application No: 07/00393/FULL



8-044  
2007 PITSEA BDC Refuse!  
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Received: 27.03.2007

## **BASILDON DISTRICT COUNCIL**

### **TOWN AND COUNTRY PLANNING 1990**

#### **Town and Country Planning (General Development Procedure) Order 1995**

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Please see notes at end of this letter

To: Grattan Puxon/Donald Kenrick For: Dale Farm Housing  
1 John Harper Street Association  
Colchester C/o Agent  
Essex  
CO1 1RP

In pursuance of the powers exercised by them as local planning authority this Council, having considered your application to carry out the following development:-

**Change in use of the land to a residential gypsy caravan site consisting of 5 pitches each containing 1 static caravan and 1 touring caravan and associated infrastructure**

On land at

**Land North Of  
Terminus Drive  
Pitsea  
Basildon  
Essex**

In accordance with the plan(s) accompanying the said application, the Council do hereby give notice of their decision to **REFUSE PERMISSION** for the said development for the reasons set out overleaf:-

**Planning Services, Basildon Centre, St. Martin's Square, Basildon, Essex SS14 1DL**

Dated: 19.07.2007

A handwritten signature in black ink that reads "Clive Simpson".

Clive Simpson  
Manager of Planning Services

- 1 The application site is located within an area allocated for employment as shown on the Proposals Map attached to the adopted Basildon District Local Plan. The proposal is contrary to Policy BAS E2 of the Local plan and saved policy BAS E3 of the Redeposit Replacement Local Plan. The proposal would sterilise the land and preclude it from being developed for its designated purpose. The material circumstances advanced do not justify an exception to this policy.
- 2 The proposal is contrary to Policy S7 of the Basildon District Local Plan and saved policy H5 of the Re-deposit Replacement Basildon Local Plan in that the land is designated for employment purposes in the Local Plan, it does not have convenient or safe access onto the public highway and has more than a minimum impact on the surrounding area, in particular the residential dwellings to the north of the application site.
- 3 The application has been submitted prematurely ahead of the Council's preparation of its Gypsy and Traveller Development plan Document, which is not due to be issued until the recommendations emerging from the Single Issue Review of the Regional Spatial Strategy are known.
- 4 The development, if permitted, would give rise to increased traffic movements along the already heavily trafficked Pitsea Hall lane to the detriment of highway safety. It would furthermore be detrimental to the safety of pedestrians using footpath 136 over which vehicles would need to pass to gain access. It is also contrary to policies T1 and T2 of the Essex and Southend-On-Sea Structure in that the site has limited access and is not sustainable.
- 5 Temporary planning permission could not be granted, as the planning circumstances are unlikely to change at the end of any temporary period. Furthermore the imposition of conditions requiring the carrying out of investigative works prior to the occupation of the land, would preclude the grant of temporary permission in this instance.

**Planning Services, Basildon Centre, St. Martin's Square, Basildon, Essex SS14 1DL**

Dated: 19.07.2007



Clive Simpson  
Manager of Planning Services

## NOTES

- (1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, Transport and the Regions in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Room 308A Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN). The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the order. He does not in practice refuse to entertain appeals solely because the decision of the local authority was based on a direction given by him.
- (2) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State, or the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Council of the district in which the land is situated, as the case may be a Purchase Notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- (3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

**BASILDON DISTRICT COUNCIL**

**Report to:** Development Control and Traffic Management Committee  
19 June 2007

**PLANNING APPLICATION 07/00393/FULL  
CHANGE IN THE USE OF LAND TO A RESIDENTIAL GYPSY CARAVAN SITE  
AT LAND NORTH OF TERMINUS DRIVE PITSEA**

**Report by:** Head of Property, Health and Development Services

**Enquiries to:** Neil Costen, Manager of Planning Enforcement, on(01268) 294153

**Enclosures:** None

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**EXECUTIVE SUMMARY:**

This report describes Planning Application No. 07/00371/FULL, change in the use of land to a residential gypsy caravan site consisting of five pitches each containing one static and one touring caravan and associated infrastructure at land the north of Terminus Drive, Pitsea, and associated infrastructure.

**WARD(S):**

Pitsea South East Ward

**RECOMMENDATION:**

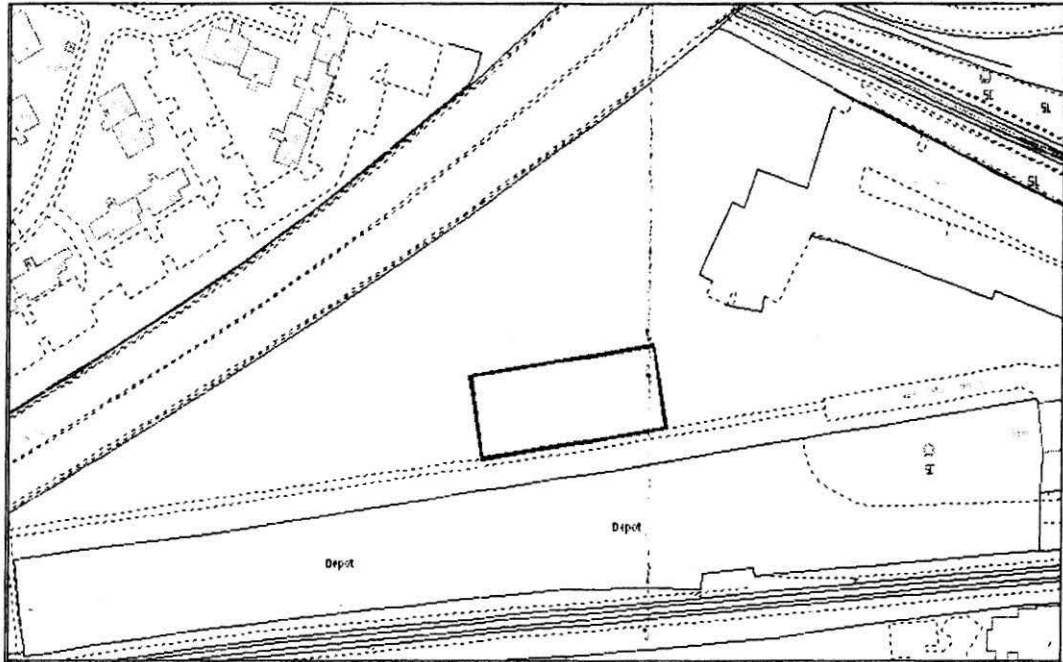
**That Planning Application referenced 07/00393/Full be refused planning permission for the reasons set out at the end of this report.**

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**BACKGROUND****APPLICATION SITE**

The application site is located within an area of level scrubland and has an area of 0.15 hectares. It is situated to the north of the Terminus Drive, a track which is shared with footpath FP136, providing access from The Meads Vange to Pitsea Hall Lane and Pitsea Railway Station. The footpath also gives access to a further footpath that leads south over the railway lines on to the marshes beyond. Terminus Drive is a private road over which vehicular traffic has no right of access. The application site therefore does not have vehicular access from the public highway. The nearest accessible public highway is Pitsea Hall Lane. To the north of the site is located the A13 Pitsea flyover and beyond that is the Chestnuts housing estate consisting a number of three- and four-storey apartment blocks. A 1.5 metre high earth mound has been placed under the entire length of the flyover to restrict access to the application site and surrounding land from the housing estate. Located to the south of the application site, is a redundant railway goods yard which is understood to be earmarked for use as a trans-shipment depositary for the waste that will be generated by the Cross Rail project should it get the go ahead.

Located beyond the yard is the Fenchurch Street to Shoeburyness Railway line. Located to the east of the application site is a security fenced compound and station car park beyond which is the Basildon branch of the Fenchurch Street to Shoeburyness Railway line.



## PROPOSAL

The application proposes a change in the use of scrubland to a residential gypsy caravan site consisting of five pitches each containing one static and one touring caravan along with other associated infrastructure. This includes the formation of hardstandings, erection of fences, provision of foul and surface water drainage and other services, including vehicular access to the highway.

The application has been made on behalf of the occupiers of the unauthorised traveller sites at Dale Farm, Crays Hill, Billericay. It is the intention, if the application is approved, that the sites be allocated to the most needy families at Dale Farm.

## DEVELOPMENT PLAN NOTATION

The application site is shown to be located within an area designated for employment on the Proposals Map of the adopted Basildon District Local Plan.

The Council resolved on 29 June 2006 (Minute No. 2006/371) that the Development Control policies in the draft Basildon District Replacement Local Plan, together with their supporting written justification, should be regarded as material considerations in the determination of planning applications. The application site is shown as being in an area designated for employment on the Proposals Map accompanying the Plan.

## PLANNING HISTORY

There have been two relevant planning applications made in relation to the development of land on or about the location of the application site prior to the submission of this application. They are as follows -

Application	Description	Decision
BAS/00356/86	Retail Warehouse	Refused August 1986
BAS/00564/00	Change of Use of Land for Use as a Sunday Market	Refused July 2000

## CONSULTATIONS

### External Consultees

Essex County Council - Highways Southern Area Office	-	Objections have been lodged, as the proposal would lead to an increase in unnecessary traffic movements to and from the site in direct conflict with the aims and objectives of Policy T1 (Sustainable Transport) and Policy T3 (Accessibility).
Environment Agency	-	No objections, providing proper and adequate provisions for the management of foul and surface water drainage are provided prior to the development taking place.
Essex County Council - Gypsy Services Manager	-	No comments received
Network Rail	-	Objections have been lodged in that the proposal may compromise the safe working of the operational railway. Network Rail request that a noise and vibration assessment be carried out in accordance with the advice given in PPG24 in the light of the distance the proposal is from the operational railway. Surface water drainage should not compromise the operational railway. Adequate fencing should be provided to protect against trespass and vandalism, and provide residential units acoustic insulation.
Essex County Council - Traveller Education Service	-	No Comment.
NHS Primary Care Trust	-	No comments received.

### External Consultees (cont.)

#### English Partnerships

- In response to a consultation on this application, English Partnerships has submitted a copy of a letter it has sent to the applicants' agent, which includes the following statements.

"As you may know the site at Terminus Drive has been identified for employment use and this is still the case."

"As English Partnerships has an intended and potential use for the property in conformance with planning policy we would not consider disposal of the property for a different use until these other potential uses have been found not to be required on the site."

### Internal Consultees

#### Environmental Health

- Comments on four matters have been received, these relate to land contamination, foul water drainage, noise and air pollution.

It is recommended that, prior to the development of the site, the applicants should undertake an investigation to establish whether the land is contaminated as a result of the land's previous uses. It is recommended that a condition be attached to any permission that may be granted to ensure that such an investigation is carried out prior to the commencement of any development.

It is recommended that a condition be applied to ensure that the site is connected to the public sewer system to ensure proper disposal of foul water from the site.

No adverse comments have been received with regards to noise or air pollution levels, which appear to fall within acceptable levels.

### Neighbours

- 375 neighbouring residential properties were notified with 357 objections and one petition having been received, their objections being -
  - (i) Contrary to development plan policy.
  - (ii) Loss of employment land.
  - (iii) The proposal would be out of keeping with the surrounding area.
  - (iv) Risk of flooding.
  - (v) Loss of open space.
  - (vi) Loss of flora and fauna.
  - (vii) Unsuitability because of the air and noise pollution in the area.
  - (viii) Proximity of railway lines and the A13 flyover to the site.
  - (ix) Lack of vehicular access.
  - (x) Safety issues relating to the use of public ways of right in the locality of the site.
  - (xi) The use of cess pits for the disposal of foul water.
  - (xii) Would be an added burden on already over stretched local services such as schools, doctors, the Police etc.
  - (xiii) The suitability of the site for residential development of the type proposed by the application.

### PLANNING COMMENTS

#### Principle of development

The application site is located within the centre of an area of land that is designated for Employment purposes in the Basildon District local Plan.



This states at Policy BAS E2 that: 3.5 Hectares of land is allocated for employment purposes in Terminus Drive, Pitsea subject to the following criteria -

- (i) The proposal must be subject to a traffic impact assessment. Any improvement to the local highway network required to enable the development to take place, will be expected to be provided by the developer; and
- (ii) The site shall provide for B1 and B2 uses".

If this proposal were to be granted planning permission, it would result in blighting the land and restrict its future commercial development to the detriment of local economic opportunity. The proposal is therefore contrary to development plan policy BAS E2 and saved re-deposit replacement plan policy BAS E3. This states that 1.9 hectares of land at Terminus Drive, Pitsea, shall remain allocated for employment purposes. The remaining 1.6 hectares previously designated shall be reserved for a rail waste transfer facility. The weight to be given to the policy is dependant on whether it conforms with national planning guidance and the number of objections received when on deposit for public comment. The landowner, English Partnerships, has supported the continued designation as employment land. No objections to this designation were received.

Local Plan policy BAS S6 states that the Council will consider planning applications for the development of sites for residential occupation by gypsy families with regard to the following criteria -

- (i) The need to provide adequate gypsy site provision in accordance with Government guidance and the need to protect the Green Belt;
- (ii) The Bi-annual count of gypsy caravans, the number of existing pitches already provided and those with planning permission whether permanent or temporary;
- (iii) In assessing applications from gypsy families, the Council will need to be satisfied that the applicant is a true gypsy as defined in section 24 of the Caravan Sites and Control of Development Act 1960 (as amended by the Criminal Justice and Public Order Act 1994). Applicants will have to be able to demonstrate firm documentary evidence to support their claim to gypsy status. This will also include a statement which demonstrates the family's connections with the District; and
- (iv) The location of the proposed site and how it relates to the locational criteria in policy BAS S7.

Policy BAS S7 states that - applications for sites for residential occupation by gypsy families will be considered with regard to the following locational criteria:

- (i) Applications will normally be refused in the following areas -
  - Green Belt;
  - Sites of Special Scientific Interest (SSSIs);
  - Sites of Importance for Nature Conservation (SINCs);
  - Nature Reserves;
  - Country Parks; and the Marshes Area.

- (ii) Elsewhere in the District, proposals for new gypsy sites will be determined in relation to land use factors. Proposals must be consistent with Green Belt, Nature, Environment and Conservation Policies contained within the Local Plan. They will also be assessed against the following criteria. Sites should -
- (a) be within reasonable distance of a settlement for access to schools, shops etc.;
  - (b) have minimum impact upon the Green Belt and the appearance of the countryside without the need for extensive earth bunding or tree planting;
  - (c) have convenient and safe access to the main highway network; and
  - (d) have minimum impact on existing residential properties.

Criteria (ii) of the above policy BAS S7 states that proposals for new gypsy sites will be determined in relation to land use factors. The land the subject of this application is designated for employment purposes and subject to policy BAS E2 and saved policy BAS E3 of the re-deposit replacement plan. The proposal is contrary to the above criteria and therefore it would be inappropriate to grant planning permission.

Access to the site is limited by the infrastructure that surrounds the site, namely operational railway lines and the A13 Pitsea flyover. The application site is not accessible by motor vehicle and no details of how vehicular access is to be achieved have been submitted. The site is therefore land-locked and the development proposed cannot be implemented, furthermore as the proposal is contrary to criteria (ii)(c) it would therefore be inappropriate to grant planning permission.

Criteria (ii) (d) of the policy BAS S7 states that proposals for gypsy site development must have a minimum impact on existing residential properties. The Council's position is that the application site has more than a minimum impact and is therefore contrary to the criterion.

The Re-deposit Replacement Local Plan provides a criteria based policy BAS H5 which has been saved as a material consideration in the determination of planning applications. The development proposed by this application would not accord with the criteria set out in the policy.

The application has been submitted prematurely in that it has been submitted in advance of the Council's preparation of its Gypsy and Traveller Development Plan Document (DPD). The proposed timetable for preparing this document is set out in the approved Local Development Scheme (LDS). It is intended that the DPD will be based on the recommendations that emerge from the issue of the Single Issue Review of the Regional Spatial Strategy (RSS) preferred option report. The identification of sites suitable for residential gypsy site development will not be considered until the recommendations set out in the preferred options report are known. Therefore, this application has been submitted prematurely and should not be granted planning permission in advance of knowing the recommendations of the Single Issue Review of the RSS.

In addition, the land is owned by English Partnerships and there is no indication that they are prepared to allow the land to be used for the creation of residential sites for gypsy families. No documentation has been submitted with the application to say that English Partnerships support the proposal. Whilst land ownership is not a relevant planning issue, it is important to ensure that any sites that are allocated or permitted for residential use by gypsy families are capable of actually being brought forward for development.

### Proposed design, density, layout and impact on neighbours

The application site would be divided into five self-supporting pitches each containing a modern commercially produced mobile home and touring caravan. No mention of the siting of portable utility buildings has been made in the application, but can be presumed necessary to conform to the normal requirements of gypsy families. The submitted block plan shows provision on each of the plots for vehicle parking and turning. However, vehicular access to each of the proposed pitches has not been addressed other than to say that the existing access off Pitsea Hall Lane is adequate. This has not taken into account the fact that no public highway rights' exist over Terminus Drive.

The site is sustainable in that it is within walking distance (half a mile) of a railway station, a major supermarket and the shops and services of Pitsea Town Centre.

The number of pitches it is proposed to develop would have an impact upon the surrounding area and the residential dwellings to the north of the application site.

### Parking and Highway Issues

Vehicle parking is to be provided on each of the pitches. As stated above vehicle access has not been addressed in the application. Pitsea Hall Lane is a narrow heavily trafficked road and on-street parking is not an option.

The Highways Authority object to the proposal on the basis that it does not accord with their sustainable transport policy T1 and accessibility policy T3 contained in the Essex and Southend on Sea Structure Plan.

### Temporary Permission

Circular 01/2006 states that temporary permission should be considered where there is a clear and immediate need evidenced through the presence of a significant number of unauthorised encampments.

The advice given in Paragraph 45 is that temporary planning permissions may be justified where it is expected that planning circumstances are likely to change at the end of the temporary period. The Planning Authority should give consideration to the granting of temporary planning permission in situations where there is currently an unmet need and no available alternative site provision in the area but where there is a reasonable expectation that new sites are likely to become available to meet that need at the end of the temporary period. In such circumstances, planning authorities are expected to give considerable weight to the unmet need in considering whether a temporary permission is justified. The planning circumstances are unlikely to change at the end of the temporary period and therefore it would inappropriate to grant temporary permission.

In addition, the survey work required to establish whether the land is contaminated and the cost of any possible remedial works mean it would be impractical to grant a temporary consent.

## CONCLUSION

It is acknowledged that there are a large number of unauthorised traveller sites in the District. However, any alternative sites that are proposed for development must be in accordance with the Council's other policies and guidelines and, in this case, it is considered that this site is not suitable as a residential site for a traveller families.

It is therefore concluded that this proposal is contrary to development plan policy would lead to highway danger and is premature. For the reasons set out below it should be refused planning permission.

- (a) The application site is located within an area allocated for employment as shown on the Proposals Map attached to the adopted Basildon District Local Plan. The proposal is contrary to policy BAS E2 of the Local Plan and saved policy BAS E3 of Re-deposit Replacement Local Plan. The proposal would sterilise the land and preclude it from being developed for its designated purpose. The material circumstances advanced do not justify an exception to this policy.
- (b) The proposal is contrary to Policy S7 of the Basildon District Local Plan and saved policy H5 of the Re-deposit Replacement Basildon Local Plan in that the land is designated for employment purposes in the Local Plan, it does not have convenient or save access on to the public highway and has more than a minimum impact on the surrounding area, in particular the residential dwellings to the north of the application site.
- (c) The application has been submitted prematurely ahead of the Council's preparation of its Gypsy and Traveller Development Plan Document, which is not due to be issued until the recommendations emerging from the Single Issue Review of the Regional Spatial Strategy are known.
- (d) The development, if permitted would give rise to increased traffic movements along the already heavily trafficked Pitsea Hall Lane to the detriment of highway safety. It would furthermore be detrimental to the safety of pedestrians using footpath 136 over which vehicles would need to pass to gain access. It is also contrary policies T1 and T2 of the Essex and Southend on Sea Structure Plan in that the site has limited access and is not sustainable.
- (e) Temporary planning permission could not be granted, as the planning circumstances are unlikely to change at the end of any temporary period, furthermore the imposition of conditions requiring the carrying out of investigative works prior to the implementation would preclude the grant of temporary permission in this instance.

## **GENERAL INFORMATION**

### **Financial Implications**

There are no direct financial implications to the Council.

### **Risk Management Implications**

The Council's decisions on planning applications can be challenged, and costs can be awarded against the Council. Risk of these eventualities are minimised by applications being considered strictly in accordance with current planning guidance.

The Council has adopted the national code of conduct and a specific code, "Probity In Planning". Members are offered training in dealing with planning applications and officers' advice is available at all stages of consideration of each application.

### **Background Papers**

1. Planning Application File Referenced 07/00393/FULL.
2. The Basildon District Local Plan Proposals Map.
3. The Essex and Southend on Sea Structure Plan.
4. The Basildon District Local Plan.
5. The Re-deposit Replacement Local Plan.
6. Circular 01/2006.